

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Applicant	:	Eric Bodnar	
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APPEAL BRIEF UNDER 37 C.F.R. § 41.37(a)

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner of Group 2617, dated May 25, 2007, which finally rejected claims 33-36, 41-49, 54-57 and 59-71 in the above identified application. This Appeal Brief is hereby submitted pursuant to 37 C.F.R. § 41.37(a).

CERTIFICATE OF TRANSMISSION

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/Judith A. Szepesi/ October 29, 2007

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Date

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I. REAL PARTY IN INTEREST

The real party in interest in this appeal is VeriSign, Inc. a Delaware corporation, located at 487 East Middlefield Road, Mountain View, CA 94043.

II. RELATED APPEALS AND INTERFERENCES

To the best of the Appellants' knowledge, there are no other appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. STATUS OF CLAIMS

Claims 33-36, 41-49, 54-57 and 59-71 are pending in the application and were finally rejected in the Office Action mailed May 25, 2007. Claims 33-36, 41-49, 54-57 and 59-71 are the subject of this appeal. A copy of claims 33-36, 41-49, 54-57 and 59-71 as they stand on appeal are set forth in Claims Appendix.

IV. STATUS OF AMENDMENTS

No amendments have been submitted subsequent to the Final Office Action mailed May 25, 2007.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Appellants' invention as claimed in claims 33-36, 41-49, 54-57 and 59-62 is directed to a method and system for automatically provisioning user accounts for new owners of user devices such as, for example, wireless digital cameras. User operated devices typically require users to proactively register a device or setup a user account before useful operation may occur. However, Appellants' presently claimed invention provides the user with a method and system for performing useful functions, such as uploading user data such as electronic photographs to a website, without having to first register or setup a new user account.

Independent claim 33 claims a system that facilitates uploading of digital images from a digital camera, the system comprising: a web site for hosting said digital images captured by the digital camera (Specification, paragraphs [0015-0017]; paragraphs [0085-0088]; and Figure 3); a transport mechanism for uploading the digital images from the digital camera to a user account at the web site, said user account being pre-provisioned for the digital camera (paragraphs [0082-0083]; paragraphs [0085-0088]; and Figures 3-4); a module for automatically associating the digital images uploaded to the Web site with the pre-provisioned user account and thereafter providing on-line access to the digital images, without requiring a user to manually set up the user account (Specification, paragraphs [0089] and [0092] and Figure 4); a provisioning information module that generates a unique device ID that is used by an accounting management module for associating the digital images with a particular cellular phone device used by the digital camera to upload digital images (Specification, paragraphs [0089] and [0090] and Figure 4); and a buffered image storage module to temporarily store the digital images during uploading prior to determining the pre-provisioned user account associated with the unique device ID, and

prior to associating the digital images with a particular cellular phone device (Specification, paragraphs [0089] and [0091] and Figure 4).

Independent claim 54 claims the invention as an apparatus (Specification, paragraphs [0085-0088]; Figures 3-4). Independent claim 61 claims the invention as a system (Specification, paragraphs [0085-0088]; Figures 3-4).

Independent claim 63 claims a method that facilitates uploading of user data from a user-operated device, the method comprising: receiving a transfer request from a cellular phone having a unique device ID, to transfer data to a Web site from the user-operated device (Specification, paragraphs [0096] and [0108-0109]; Figures 5 and 6A-C); determining if there is a user account associated with the unique device ID, and if so, associating the user data with the user account (Specification, paragraphs [0108-0109] and [0119]; Figures 6A-C and 7); if there is no user account associated with the unique device ID, establishing a user account automatically at the particular Web site, including creating a user identifier (ID) based, at least in part, on said unique device (Specification, paragraphs [0110-0113]; Figures 6A-C); and upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account (Specification, paragraphs [0119-0120] and [0124]; Figures 6A-C and 7).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 33-36, 41-49, 54-57 and 59-62 are patentable under 35 U.S.C. § 102(e) over U.S. Patent no. 6,636,259 of Anderson et al. (hereinafter “Anderson”)?
2. Whether claims 63-71 are patentable under 35 U.S.C. §103(a) over Anderson in view of U.S. Patent No. 6,993,497 of Yeh et al. (hereinafter “Yeh”)?

VII. ARGUMENT

Claims 33-36, 41-49, 54-57 and 59-62 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,636,259 of Anderson et al. (hereinafter “Anderson”).

Claims 63-71 stand rejected under 35 U.S.C. §103(a) over Anderson in view of U.S. Patent No. 6,993,497 of Yeh et al. (hereinafter “Yeh”). As discussed above, Appellants’ presently claimed invention provides the user with a method and system for performing useful functions, such as uploading user data and/or electronic photographs to a website, without having to first register or setup a new user account.

Anderson describes a system where cameras are associated with an entity so that pictures from entity camera can be uploaded onto an entity specific website maintained by an online photo-sharing service (Anderson, Column 3, line 25 to Column 4, line 67; Abstract). Account information is generated by a server and stored on the camera so that a user need not later enter account information when accessing a website hosting the user’s digital images (Anderson, Column 10, lines 37-47; Column 11, lines 20-27). For requests to upload images, account information is transmitted with the digital images to a gateway server. After matching the

account information with an account, the images then uploaded via the gateway server and stored in a database (Anderson, Figures 1 and 4A-4B).

Yeh describes systems and methods for an over-the-internet telephone reminder service (Yeh, Abstract). A user must log onto a web site and subscribe to the service before reminders may be issued (Yeh, Column 4, lines 46-58). In all instances described by Yeh, therefore, before a person can use the services described in Yeh, they must manually log into a website and proactively register for an account (Yeh, Column 4, lines 46-58).

A. Claim Group I: Claims 33-36, 41-49, 54-57 and 59-62. Appellants' Invention is Patentable Over U.S. Patent No. 6,636,259 of Anderson et al. (hereinafter "Anderson").

The Examiner has rejected claims 33-36, 41-49, 54-57 and 59-62 under 35 U.S.C. § 102(e) over Anderson. "A *prima facie* case is made ... if, within 1 year of the filing date, the invention, or an obvious variant thereof, is described in a "printed publication" whose authorship differs in any way from the inventive entity" (MPEP 2131). "To anticipate a claim, the reference must teach every element of the claim" (MPEP § 2131). Furthermore, a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." (*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). Therefore, the Examiner must establish that

Anderson teaches every element of the claims. Appellants respectfully submit that Anderson fails to disclose the invention as claimed by the Appellants.

1. Anderson fails to teach each and every limitation of the Appellants' invention as claimed in claim group I.

Anderson describes a system where cameras are associated with an entity so that pictures from entity camera can be uploaded onto an entity specific website maintained by an online photo-sharing service (Anderson, Column 3, line 25 to Column 4, line 67; Abstract). The Examiner stated that Anderson teaches “a buffered image storage module to temporarily store the digital images during uploading.”(See Office Action, mailed January 23, 2007, page 3 *citing* Anderson, column 4, lines 24-46).

The Appellants respectfully disagree. Anderson fails to provide any description of temporarily storing images during the image upload process, let alone a buffered image storage module to temporarily store images.

Anderson describes a gateway server, 18, that receives entity identification data for digital images that are to be uploaded to a photo-sharing service (Anderson, Figure 1; column 4, lines 9-38). The gateway server then matches the entity IDs with an account in the database 20 (Anderson, column 4, lines 25-31). Images may then be uploaded to the corresponding account in the database, 20 (See Anderson, Figure 4A-4B). Furthermore, Anderson teaches that the gateway server, 18, is the interface between users/cameras and photo-sharing websites (See Anderson, column 7, line 62 to column 8, line 19).

In claim 33, the Appellants claim:

A system facilitating uploading of digital images from a digital camera, the system comprising:

- a Web site for hosting said digital images captured by the digital camera;
- a transport mechanism for uploading the digital images from the digital camera to a user account at the Web site, said user account being pre-provisioned for the digital camera;
- a module for automatically associating the digital images uploaded to the Web site with the pre-provisioned user account and thereafter providing on-line access to the digital images, without requiring a user to manually set up the user account;
- a provisioning information module that generates a unique device ID that is used by an accounting management module for associating the digital images with a particular cellular phone device used by the digital camera to upload digital images; and
- a buffered image storage module to temporarily store the digital images during uploading prior to determining the pre-provisioned user account associated with the unique device ID, and prior to associating the digital images with a particular cellular phone device.

(Emphasis Added)

The Examiner states that because “gateway server, 18, is the first element in connection with the memory of the camera, 82a, through the internet all digital images are uploaded must be temporarily saved in the gateway server, 18, till full upload is completed before they are transferred to the database, 20, of the photo-sharing server” (Final Office Action, mailed May 25, 2007, page 2). The Examiner concludes that therefore, Anderson teaches the “buffered image storage module” claimed by the Appellants. Appellants respectfully disagree with this analysis.

Appellants do agree with the Examiner that a gateway server is taught by Anderson, and that uploaded images are stored in databases of a photo-sharing service. Nonetheless, nothing in Anderson teaches or even suggests that the gateway server includes the features of a “buffered image storage module” as claimed by the Appellants.

The passages of Anderson, which address the gateway server, only describe the gateway server as a communications interface between user devices and the back end of a photosharing service. Specifically, the gateway server of Anderson receives camera entity IDs and matches them with existing user accounts on a server (Anderson, column 4, lines 9-38; Figure 1). User images may then be uploaded for storage, via the gateway server, at either a photosharing database or an entity database (Anderson Figure 1; Figures 4A-4B). The discussion, in Anderson, which is related in any way to the gateway server is silent as to any storage, temporary storage, etc. aboard the gateway server.

The Examiner, however, cites column 4, lines 24-46 in Anderson as teaching the “buffered image storage module” claimed by the Appellants. Anderson states:

The gateway server 18, which communicates with the cameras 14 during image uploading, receives one or more entity IDs 28 from each camera 14 and matches the entity ID 28 with an entity account 30 in the database 20. The images are then automatically associated with the photo-sharing website 22 of the identified entity 12 and/or the identified user.

After the images are uploaded, a user of the camera 14 may visit the online photo-sharing website 22 over the Internet to view the images via a web browser 24. Since the photo-sharing websites 22 are transparently hosted by the photo-sharing service 16, each photo-sharing website 22 appears as though it is hosted by the entity itself, rather than the third party service.

In one embodiment, the cameras 14 may connect to the Internet via a service provider 26, which may include a wireless carrier and/or an Internet service provider (ISP) that is capable of servicing many devices simultaneously. In a preferred embodiment, each of the cameras 14 is provided with wireless connectivity for connecting to the Internet, and are therefore so called “web-enabled” devices, although a wired connection method may also be used.

The Appellants respectfully submit that they are unable to find any indication within the passage, or any other part of Anderson, that Anderson teaches temporarily storing images during

uploading. Furthermore, even if Anderson were to temporarily store images during uploading, there is no indication that the Gateway Server of Anderson would provide the temporary storage. Rather, Anderson merely describes the Gateway Server as an interface between web-enabled camera devices and the photosharing storage services of Anderson.

The Examiner concludes, however, that because the gateway server 18 is the first element of photo-sharing service 20, that is in contact with a user/camera and therefore the gateway server 18 must temporarily store images (*See* Final Office Action, mailed May 25, 2007, pages 2-3). There is simply no indication or teaching within the reference that supports an assertion that the gateway server 18 of Anderson provides storage of any kind for photo-sharing service, 16. Furthermore, the Appellants do not understand why being a first element in contact with a network would lead the Examiner to believe that the element has any storage, let alone “a buffered image storage module to temporarily store the digital images during uploading prior to determining the pre-provisioned user account associated with the unique device ID, and prior to associating the digital images with a particular cellular phone device.”

In fact, the concept of temporary image storage is completely absent from Anderson. The Examiner states that “Apparently, the uploading and temporary storing process is happened prior the account information is received and validated and prior to associating the digital images with a particular cellular phone device” (Final Office Action, mailed 5/25/07, page 3). However, Appellants respectfully submit that the Examiner’s conclusion is not supported by the teachings of Anderson, which explicitly recite and illustrate the opposite. As clearly illustrated and discussed by Anderson, only after camera information and account information is received and verified (Anderson, Figure 4A-4B, elements 114-128) does Anderson upload user images

(Anderson, Figure 4B, element 132). Therefore, to interpret Anderson as asserted by the Examiner would be contrary to, and beyond the bounds of, the explicit teachings of Anderson.

Thus, Anderson must fail to teach or suggest “a buffered image storage module to temporarily store the digital images during uploading prior to determining the pre-provisioned user account associated with the unique device ID, and prior to associating the digital images with a particular cellular phone device,” as claimed.

Therefore, Anderson fails to anticipate claim 33 under 35 U.S.C. §102(e). Therefore, claim 33, and claims 34-36 and 41-49 which depend on claim 33, are not anticipated by Anderson.

2. Anderson fails to teach user image storage prior to the establishment or receipt of a username and password, as claimed in claim group I.

As discussed above, Appellants submit that Anderson fails to teach a gateway server with a temporary storage buffer. *Arguendo*, even if the gateway server described by Anderson stored images during the upload process to the photosharing service, the storage does not occur until after a username, password, and camera identification data has been received and verified by the gateway server (*See* Anderson, figure 2, elements 58-60; figures 4A-4B, elements 120-132).

The Examiner states:

“After taking pictures with the camera in step 102, the user may review the images in the camera’s LCD screen and optionally select a set of images to upload to the photo sharing service 16 in step 104. The user then presses a ‘send’ button on the camera in step 106 to upload the images” (see col. 9, lines 60-67).
Apparently, the uploading and temporary storing process is happened prior the account information is received and validated and prior to associating the digital images with a particular cellular phone device.

(Office Action, mailed January 23, 2007, page 3, Emphasis Added)

The Appellants respectfully disagree, however, and submit that Anderson discloses exactly the opposite. Anderson recites:

Continuing with FIG. 4B, the gateway server 18 uses the unique camera information to set up a user account 40 in step 122. After creating the user account 40, the gateway server 18 returns an information packet to the camera containing new ISP information (if needed), an account ID, and an account password in step 124. The information packet may also contain a default action list specifying what actions should be taken with respect to the images, an advertisement for display on the camera, and the URL of the entity-specific website 22.

...

Referring again to FIG. 4B, **after the user selects one or more actions from the action list 48, the camera begins to upload the images along with the selected actions in step 132 and displays a progress bar on the screen in step 134.** In one preferred embodiment, the camera may also display the advertisement sent in the information packet from the gateway server 18. The advertisement may advertise the controlling entity 12, the entity's photo-sharing site 22, or the photo sharing service 16. After all the images are uploaded and associated with the user's account 40, the camera breaks the connection with the gateway server in step 136. At this point, the camera 14 may also display the URL of the entity-specific website 22 to the user.

(Anderson, Column 9, line 50 to Column 11, line 6, Emphasis Added)

Therefore, as explicitly recited by Anderson, prior to the uploading of images, Anderson describes verifying and/or setting up a user account with the photosharing service, and returning the account information and action list back to the user (Anderson, Figures 4A-B, elements 106, 116-120, and 124-128). Then *only after* the account has been established and verified, does Anderson describe uploading images (Anderson, Figure 4B, element 132). Thus, Anderson requires account information be created and verified before images are uploaded to the photo sharing server. Therefore even if Anderson were

to store images in the Gateway Server during the image upload process, Anderson would still fail to describe, “a buffered image storage module to temporarily store the digital images during uploading ... prior to associating the digital images with a particular cellular phone device” as recited by the Appellants in claim 33.

Therefore, in addition to the reasons discussed above in section VII.A.1 of the present Appeal Brief, Anderson also fails to anticipate claim 33 under 35 U.S.C. § 102 because Anderson fails to teach or even suggest “a buffered image storage module to temporarily store the digital images during uploading prior to determining the pre-provisioned user account associated with the unique device ID [emphasis added]” as claimed.

3. Anderson fails to teach user image storage prior to the establishment or receipt of a username and password, as claimed in claim group I.

Anderson further discloses that digital images uploaded to a photo-sharing service are associated with ID information of a camera (Anderson, Column 10, lines 15-37). Then after the user account is established for the specific camera, information for accessing the new user account is returned to the camera so that pictures uploaded to the service are thereafter associated with the specific camera (Anderson, Column 10, lines 37-53; Figure 4B). As such, each user account is associated with a single camera regardless of how the pictures are uploaded to the photo-sharing website.

Appellants, however, claim in part “a provisioning information module that generates a unique device ID that is used by an accounting management module for

associating the digital images with a particular cellular phone device used by the digital camera to upload digital images [Emphasis Added].”

Anderson discloses that digital images uploaded to a photo-sharing service are associated with ID information of a camera (Anderson, Column 10, lines 15-37). Then after the user account is established for the specific camera, information for accessing the new user account is returned to the camera so that pictures uploaded to the service are thereafter associated with the specific camera (Anderson, Column 10, lines 37-53; Figure 4B). Thus, Anderson explicitly specifies that a camera’s data is utilized to generate an account ID, and not a particular cellular phone device.

In contrast with Anderson, Appellants claim a unique device ID of a cellular phone is used establish a user’s account so that the user’s digital images, regardless of the camera that is used to capture the images, are stored in the account associated with the cellular phone.

The Examiner stated that Anderson discloses a “associating the digital images with a particular cellular phone device ... used by the digital camera to upload digital images” (Office Action, mailed November 2, 2005, page 6 *citing* Anderson, Column 4, lines 47-67 and Column 10). Appellants respectfully disagree. The portion of Anderson pointed to by the Examiner, column 4, lines 47-67 do not discuss associating digital images with a cellular phone device. Rather, Anderson merely notes that a camera may be provided with, or connected to, a cellular device.

Therefore, in addition to the reasons discussed above, and because Anderson fails to teach associating images with a particular cellular phone device, Anderson fails to

teach each and every limitation as claimed. Appellants submit that their invention, as claimed, is not anticipated by Anderson under 35 U.S.C. § 102(e).

Therefore, Anderson fails to anticipate claim 33, and claims 34-36 and 41-49 which depend therefrom, under 35 U.S.C. §102(e) for at least the reasons discussed above.

With respect to claim 54, the Appellants claim:

An apparatus for automating activation of a user account associated with a user-operated device, comprising:
a Web site to host user data transferred by the user-operated device;
a transport mechanism to enable uploading of the user data from the user-operated device to a user account at the Web site, the user account being pre-provisioned for the user-operated device;
a module for automatically associating the user data uploaded to the Web site with the pre-provisioned user account based on a unique device ID of the transport mechanism, and thereafter providing on-line access to the user data, such that the user need not manually establish the user account at the Web site;
an identification module to determine if the data transferred by the user-operated device is from a valid type of user-operated device; and
a buffer to temporarily store the user data prior to determining the user account associated with the unique device ID.

(Emphasis Added)

As noted above, Anderson fails to teach a gateway server temporarily storing digital pictures while a user account is created or verified. In fact, Anderson requires that the user account be created or verified prior to permitting the uploading of digital pictures. (Anderson, Figure 2; Column 7, line 62 to Column 8, line 4; Column 11, lines 20-27). Only after the gateway of Anderson matches account information within a database, does it permit uploading digital photographs to a storage database (Anderson, Figures 4A-4B). Thus Anderson fails to teach or suggest “a buffer to temporarily store the user data prior to determining the user account associated with the unique device ID,” as claimed by the Appellants in claims 54-57 and 59-60.

Furthermore, Anderson associates digital images uploaded to a photo-sharing website with unique device ID of the digital camera used to capture the images (Anderson, Column 10, lines 15-53). Therefore, Anderson also fails to teach associating data uploaded to a website with the transport mechanism, as claimed in claims 54-57 and 59-60.

Therefore, Appellants respectfully submit that Anderson fails to anticipate claims 54-57 and 59-60 under 35 U.S.C. § 102.

With respect to claim 61, the Appellants claim:

A system to enable automatic provisioning of a new user account comprising:
a receiving logic to receive data from a peripheral device, coupled to a digital camera, having a unique device ID, the data destined for storage on a repository on the system;
an account management module to automatically establish a user account, including creating a user identifier (ID) based, at least in part, on said unique device ID assigned to the peripheral device;
a media gateway to associate the data with said user ID, wherein the media gateway includes a buffer to temporarily store the data prior to establishing the user account associated with the unique device ID;
such that an account is automatically created for the owner of the peripheral device, without requiring the user to first set up a user account, or any additional information to be stored on the peripheral device; and
a module allowing a user to specify a user name and password for the user account that has been automatically established, wherein online access to the data is predicated upon user input of the user specified user name and password.

(Emphasis Added)

As discussed above, Anderson teaches uploading data to a database only after account information for a digital camera is received and verified (Anderson, Figures 4A-4B). Claim 61, recites in part “a media gateway to associate the data with said user ID, wherein the media gateway includes a buffer to temporarily store the data prior to establishing the user account associated with the unique device ID” (Emphasis Added). Because Anderson explicitly recites

that the system establishes and verifies user accounts before permitting uploading of the images to a photo-sharing service, Anderson must fail to describe or suggest the “media gateway to associate the data with said user ID, wherein the media gateway includes a buffer to temporarily store the data prior to establishing the user account associated with the unique device ID” as claimed in claims 61 and 62.

Furthermore, Anderson merely teaches associating digital images uploaded to a photo-sharing service with a digital camera (Anderson, Abstract; Column 10; Figures 4A – 4B). Thus, Anderson fails to teach a pre-provisioned user account for a user-operated device and associating data uploaded to a website with the unique ID of a peripheral device.

Therefore, claims 61 and 62 are not anticipated by Anderson under 35 U.S.C. § 102.

B. Claim Group II: Claims 63-71. Appellants’ Invention is Patentable Over Anderson in view of U.S. Patent No. 6,993,497 of Yeh et al. (hereinafter “Yeh”).

Claims 63-71 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Yeh. As discussed above, Appellants’ invention as claimed is directed to a method that enables uploading user data and/or electronic photographs to a website without having to first register or setup a new user account. After data has been uploaded to a website, it may be requested, thus triggering a user account setup. In other words, Appellants invention as claimed in claims 63-71 includes that upon a first download request for previously uploaded data, a user defined login and password are received.

The Examiner has rejected claims 63-71 under 35. U.S.C. § 103(a) over Anderson in view of Yeh. “To establish a *prima facie* case of obviousness ... the prior art reference (or

references when combined) must teach or suggest all the claim limitations” (MPEP 706.02(j); *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). The Appellants respectfully submit that Anderson in view of Yeh fail to disclose or suggest all the claim limitations of the invention as claimed by the Appellants.

As discussed above, Anderson describes a system where cameras are associated with an entity so that pictures from entity camera can be uploaded onto an entity specific website maintained by an online photo-sharing service (Anderson, Column 3, line 25 to Column 4, line 67; Abstract).

Yeh describes systems and methods for an over the internet telephone reminder service (Yeh, Abstract). A user must log onto a web site and subscribe to the services of Yeh (Yeh, Column 4, lines 46-58). However, in all instances before a person can use the services described in Yeh, they must log into a website and proactively register for an account.

The Examiner stated that Anderson fails to describe “upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account” (*See* Office Action, mailed January 23, 2007, page 14). However, the Examiner cites Yeh as teaching this limitation, stating “Figure 4 of Yeh clearly shows a step (122), which allow the subscribe log on the website. The step (122) specifically requires a first user request to enter username and password” (Final Office Action, mailed 5/25/07, page 4).

Claim 63 recites:

A method facilitating uploading of user data from a user-operated device, the method comprising:

receiving a transfer request from a cellular phone having a unique device ID, to transfer data to a Web site from the user-operated device;
determining if there is a user account associated with the unique device ID, and if so, associating the user data with the user account;
if there is no user account associated with the unique device ID, establishing a user account automatically at the particular Web site, including creating a user identifier (ID) based, at least in part, on said unique device; and
upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account.

(Emphasis Added)

Although the Examiner only relies on Yeh to reject claims 67-71, the Appellants respectfully submit that the above limitations are absent from Anderson as well.

Anderson describes a system that requires an initial account setup before images may be uploaded to a photosharing website (Anderson, Figure 4B, elements 132). Thus, only after an account has been set up, and digital images have been uploaded to the photosharing website, may a request for the user images be made. As such, Anderson at best provides for user account setup upon a first upload request, and not “a first user request for data from the website.”

Because the Examiner stated that Anderson failed to teach or suggest “upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account,” the Examiner utilized the teachings of Yeh as disclosing the limitations.

Yeh, however, describes a system where a user must log onto a web site and subscribe to a services before that service may be used (Yeh, Column 4, lines 46-58). As such, before a user may initiate requests from the notification website of Yeh, the user must setup a user account. The Appellants claim the opposite, such that, data may be uploaded to a website and upon a first

request of the website, an account setup operation is performed. Thus, Yeh fails to teach the limitations lacking from Anderson.

Furthermore, in the passage cited by the Examiner (*See* Office Action, mailed January 23, 2007, page 14), Yeh recites:

At step 120, a subscriber (who has already subscribed by performing the steps of FIG. 3) logs on to the addressable website corresponding to server 20, as previously described. At step 122, the subscriber enters his or her username and password. By entering the username and password, the system of the present invention can access the demographic data that was previously entered by the subscriber, as at step 102 of FIG. 3. This data is stored in database 22 and, as previously described, is utilized to customize marketing messages to be received by subscribers. Additionally, by entering his or her username and password, the subscriber is directed to his or her personal webpage, as was previously described in step 108 of FIG. 3. Once on the personal webpage, the subscriber selects the wake-up/reminder call function of the system, preferably by clicking a hypertext link that directs the subscriber to a user-interface like the one shown in FIG. 5.

(Emphasis Added)

As explicitly recited in Yeh, prior to accessing a personal web page or accessing data on a web page, a person must have “already subscribed” (Yeh, Figures 3 and 4).

Thus, only after a person has become a subscriber is a phone number and/or website associated with that person such that the person may make requests for data (Yeh, Figure 3). As such, the required prior subscription recited in Yeh is exactly the opposite as “upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account,” because the user login and password claimed by the Appellants is created “upon a first user request for data from the website,” and not during a prior subscription interaction.

Yeh and Anderson, alone or in combination, therefore fail to describe or suggest that “upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account” as claimed by the Appellants.

Appellants submit that Anderson and Yeh, alone or in combination, fail to teach or suggest each and every limitation claimed in claim 63. Therefore, claim 63, and associated dependent claims 64-71, are not rendered obvious by Anderson in view of Yeh under 35 U.S.C. § 103(a).

VIII. CONCLUSION

Appellants contend that all claims are in condition for allowance. Appellants content that all claims are patentable in light of Anderson, as well as Anderson in view of Yeh. Therefore, Appellants respectfully submit that the references alone or in combination do not teach, disclose, or make obvious Appellants' claimed invention. Appellants respectfully pray for reversal of the Examiner's rejection.

Authorization is hereby given to charge out Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

Respectfully submitted,

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Dated:

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CLAIMS APPENDIX

FOR APEAL BRIEF UNDER 37 C.F.R. § 41.37(c)(1)(viii)

Claims 33-36, 41-49, 54-57 and 59-71 are the subject of this appeal. A copy of claims 33-36, 41-49, 54-57 and 59-71, as they stand on appeal, are presented below.

1-32. (Cancelled)

33. (Previously Presented) A system facilitating uploading of digital images from a digital camera, the system comprising:

- a Web site for hosting said digital images captured by the digital camera;
- a transport mechanism for uploading the digital images from the digital camera to a user account at the Web site, said user account being pre-provisioned for the digital camera;
- a module for automatically associating the digital images uploaded to the Web site with the pre-provisioned user account and thereafter providing on-line access to the digital images, without requiring a user to manually set up the user account;
- a provisioning information module that generates a unique device ID that is used by an accounting management module for associating the digital images with a particular cellular phone device used by the digital camera to upload digital images; and

a buffered image storage module to temporarily store the digital images during uploading prior to determining the pre-provisioned user account associated with the unique device ID, and prior to associating the digital images with a particular cellular phone device.

34. (Original) The system of claim 33, wherein said digital camera employs a cellular phone for wirelessly uploading the digital images.

35. (Original) The system of claim 34, wherein said digital camera and said cellular phone are selectively coupled to one another.

36. (Previously Presented) The system of claim 33, wherein a unique device ID associated with the digital camera is used for associating the digital images.

37-40. Cancelled

41. (Original) The system of claim 33, wherein said Web site receives digital images as they are uploaded.

42. (Original) The system of claim 33, wherein said Web site continues to store digital images that are uploaded for some period of time.

43. (Original) The system of claim 33, wherein said Web site provides on-line access to the digital images.

44. (Original) The system of claim 33, wherein said digital camera includes connectivity to a cellular phone, for uploading digital images.

45. (Previously Presented) The system of claim 33, wherein said digital camera includes wireless communication capability.

46. (Original) The system of claim 33, wherein said transport mechanism comprises a wireless communication network.

47. (Original) The system of claim 33, further comprising:

a database at the Web site for maintaining the uploaded digital images along with an associated unique device ID for the images.

48. (Original) The system of claim 33, further comprising: a module allowing a user to specify a user name and password for the user account that has been pre-provisioned.

49. (Original) The system of claim 33, wherein online access to the digital images is predicated upon user input of a valid user name and password.

50. - 53. Cancelled

54. (Previously Presented) An apparatus for automating activation of a user account associated with a user-operated device, comprising:

a Web site to host user data transferred by the user-operated device;

a transport mechanism to enable uploading of the user data from the user-operated device to a user account at the Web site, the user account being pre-provisioned for the user-operated device;

a module for automatically associating the user data uploaded to the Web site with the pre-provisioned user account based on a unique device ID of the transport mechanism, and thereafter providing on-line access to the user data, such that the user need not manually establish the user account at the Web site;

an identification module to determine if the data transferred by the user-operated device is from a valid type of user-operated device; and

a buffer to temporarily store the user data prior to determining the user account associated with the unique device ID.

55. (Previously Presented) The apparatus of claim 54, wherein the user-operated device is selected from among the following: a digital camera, a cellular telephone, a cellular telephone periodically coupled to a digital camera, and a cellular _telephone including a digital camera.

56. (Previously Presented) The apparatus of claim 54, wherein the transport mechanism has a unique device ID that is used for associating the user-operated device with the user account that has been pre-provisioned for the user data.

57. (Previously Presented) The apparatus of claim 54, further comprising:

a provisioning information module to generate a unique device ID that is used by an accounting management module for associating the user-operated device with the user account.

58. (Cancelled)

59. (Previously Presented) The apparatus of claim 54, further comprising:

a database at the Web site for maintaining the uploaded user data along with an associated unique device ID for the images.

60. (Previously Presented) The apparatus of claim 54, further comprising:

a security module to allow a user to specify a user name and password for the user account that has been pre-provisioned.

61. (Previously Presented) A system to enable automatic provisioning of a new user account comprising:

a receiving logic to receive data from a peripheral device, coupled to a digital camera, having a unique device ID, the data destined for storage on a repository on the system;

an account management module to automatically establish a user account, including creating a user identifier (ID) based, at least in part, on said unique device ID assigned to the peripheral device;

a media gateway to associate the data with said user ID, wherein the media gateway includes a buffer to temporarily store the data prior to establishing the user account associated with the unique device ID;

such that an account is automatically created for the owner of the peripheral device, without requiring the user to first set up a user account, or any additional information to be stored on the peripheral device; and

a module allowing a user to specify a user name and password for the user account that has been automatically established, wherein online access to the data is predicated upon user input of the user specified user name and password.

62. (Previously Presented) The system of claim 54, further comprising:

the media gateway to query the peripheral device for the unique device ID in response to receiving the data.

63. (Previously Presented) A method facilitating uploading of user data from a user-operated device, the method comprising:

receiving a transfer request from a cellular phone having a unique device ID, to transfer data to a Web site from the user-operated device;

determining if there is a user account associated with the unique device ID, and if so, associating the user data with the user account;

if there is no user account associated with the unique device ID, establishing a user account automatically at the particular Web site, including creating a user identifier (ID) based, at least in part, on said unique device; and

upon a first user request for data from the website, receiving the entry of a user defined login and password for providing access to data on the Website, and associating the user defined login and password with the user account.

64. (Previously Presented) The method of claim 63, wherein the user-operated device is selected from among the following: a digital camera, a cellular telephone, a cellular telephone periodically coupled to a digital camera, and a cellular telephone including a digital camera.

65. (Previously Presented) The method of claim 63, wherein establishing the user account occurs upon receiving a first transfer request from the user-operated device.

66. (Previously Presented) The method of claim 63, wherein establishing the user account occurs prior to first operation of the user-operated device.

67. (Previously Presented) The method of claim 63, wherein said user account -is established using a provisioning procedure to associate the user account with a „unique device ID assigned to at least one of the user-operated device or the cellular phone.

68. (Previously Presented) The method of claim 63, further comprising:

determining whether at least one of the user-operated device or the cellular phone is an authorized device prior to storing the images on the Web site.

69. (Previously Presented) The method of claim 63, further comprising:

temporarily saving the user data in a buffered storage module until the user data is determined to be associated with a particular user account.

70. (Previously Presented) The method of claim 69, wherein said content temporarily saved in the buffered image storage module is transferred to an image storage-by-account module in an image repository after the content is determined to be associated with a particular user account.

71. (Previously Presented) The method of claim 63, further comprising:

having a user account ticket, generated, at least in part, from the unique device ID, the user account ticket used for initially establishing the user account.

EVIDENCE APPENDIX

FOR APPEAL BRIEF UNDER 37 C.F.R. § 41.37(c)(1)(ix)

No evidence is included with this brief.

RELATED PROCEEDINGS APPENDIX

FOR APPEAL BRIEF UNDER 37 C.F.R. § 41.37(c)(1)(x)

To the best of Appellants' knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.